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FISCAL IMPACT STATEMENT

LS 7438

BILL NUMBER: SB 555

NOTE PREPARED: Jan 14, 2009

BILL AMENDED:

SUBJECT: Sale of Firearms to Mentally Ill Persons.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires the Division of State Court Administration to establish and administer an electronic system for: (1) receiving information that relates to certain individuals who may be prohibited from possessing a firearm; and (2) transmitting this information to the Federal Bureau of Investigation for inclusion in the federal National Instant Criminal Background Check System (NICS).

The bill allows the disclosure of certain mental health records to: (1) NICS or to the Division of State Court Administration for transmittal to NICS; and (2) the Indiana Data and Communication System for transmittal to NICS. The bill also provides that, if a court or the Department of Correction makes an adjudication or a finding concerning a person's mental health that may disqualify the person from possessing a firearm, the court or Department of Correction shall transmit certain information concerning the finding or adjudication to the Division of State Court Administration for transmittal to NICS.

The bill also establishes a procedure by which a person who has been released from commitment or who has completed treatment may have the person's disqualification to possess a firearm removed, and establishes a procedure by which a person may petition the State Police Department to amend the person's criminal history to reflect that the person's conviction has been reversed, vacated, or set aside.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Indiana State Police (ISP):* This legislation will allow individuals to petition the ISP to amend a person's criminal history information to reflect that a conviction has been reversed, vacated, or set aside. ISP is required to amend a person's criminal history data file provided that the conviction has been reversed, vacated, or set aside. This will increase the workload of ISP in order to

amend criminal history data to reflect any qualifying change in a person's conviction. Actual increases in workload are indeterminable but expected to be small. [ISP reports that as of January 5, 2009, a total of 148 criminal history files have limited access for noncriminal justice agencies out of a total of approximately 2.4 M criminal history files maintained by the Department.]

ISP may also experience an increase in workload to the extent that mental health professionals find it necessary to disclose a patient's record to ISP for inclusion in the Indiana Data and Communication System for transmission to the National Instant Criminal Background Check System. Actual increases in workload are unknown but expected to not significantly impact the workload of ISP staff.

Submitting Information to NICS: The bill requires the Division of State Court Administration (DSCA) to receive information and transmit information regarding people who are to be included in the National Instant Criminal Background Check System that is managed by the Federal Bureau of Investigation (FBI). This will increase the workload of the DSCA. Increases in workload will depend on the number of notices sent by the Division of Mental Health and Addiction (DMHA), local courts, mental health providers, and the Department of Corrections (DOC) that are to be forwarded to the FBI. Additionally, DMHA and DOC will experience increases in workload to the extent they are required to submit notices to DSCA.

Division of State Court Administration System Establishment: The requirement that DSCA establish the electronic system presents no additional fiscal impact to the state. ISP and DSCA report that an electronic system that is designed to transmit information to NICS has already been planned and would be operated by the Judicial Technology and Automation Center (JTAC). Both DSCA and ISP will have access to the system and will be able to transmit the necessary information to NICS. The one-time start-up cost for the system is budgeted at \$184,000, and an additional \$45,000 would be required in order to allow ISP to interface and access the system. DSCA reports they will finance their part of the system from federal grants DSCA has received for the Protection Order Registry program. ISP reports they will require additional resources to finance their part of the system.

Department of Corrections: The bill also provides for a NICS appeal process for individuals who were included on the database that would limit their ability to purchase or possess a handgun. Individuals are authorized to petition DOC to review their case if a staff psychiatrist made specific determinations. If a person is no longer deemed a danger to others or to act in a manner dangerous to public safety, and the requested relief is not contrary to the public interest, the court is required to transmit the information to DSCA for inclusion in the NICS. Actual increases in workload will depend on the number of individuals who petition DOC for an appeal and are granted a hearing.

Background Information: The NICS is a system that was put in place in accordance with the federal Brady Gun Law. This database maintains a list of individuals that are considered ineligible for the purchase of handguns. In order to sell a handgun, handgun sellers/distributors in Indiana must run a purchase applicant's name through the NICS and receive approval from the NICS that the person is authorized to buy and possess a handgun. The penalty for violating the Brady Law in Indiana by a handgun seller/distributor is a Class A misdemeanor.

Explanation of State Revenues:

Explanation of Local Expenditures: Courts that operate drug court programs will also be required to submit information to DSCA. This information will be submitted to DSCA in addition to other information these

courts are required to submit. Increases in workload for court personnel are expected as a result. Actual increases in workload depend on the number of individuals who are ordered to attend treatment programs for alcohol and substance abuse.

The bill also provides for a NICS appeal process for individuals who were included on the database that would limit their ability to purchase or possess a handgun. Individuals are authorized to petition local courts to review information regarding their case. If a person is no longer deemed a danger to others or to act in a manner dangerous to public safety, and the requested relief is not contrary to the public interest, the court is required to transmit the information to DSCA for inclusion in the NICS. Actual increases in workload will depend on the number of individuals who petition the court for an appeal and are granted a hearing.

Explanation of Local Revenues:

State Agencies Affected: ISP; DSCA; DOC; JTAC.

Local Agencies Affected: Local courts.

Information Sources: Jeff Wardlow, ISP; Mary DePrez, DSCA; Patrick Hess, JTAC.

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